IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY APPLICATION No. 565 of 2006
In
COMPANY PETITION No. 67 of 1993

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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TESTEELS EMPLOYEES COMMITTEE - Applicant(s)
Versus
O.L. OF TESTEELS LTD. & 5 - Respondent(s)

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Appearance :
MR KR KOSHTI for Applicant(s) : 1,
OFFICIAL LIQUIDATOR for Respondent(s) : 1,
MS PAURAMI B SHETH for Respondent(s) : 2 - 3.
None for Respondent(s) : 4,
MR MITUL K SHELAT for Respondent(s) : 5,
SINGHI & CO for Respondent(s) : 6,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 13/10/2006

ORAL JUDGMENT

Heard Shri KR Koshti, learned advocate appearing on

behalf of the applicant, Ms Pouromi Sheth, learned advocate appearing on behalf of the respondent Nos.2,3 and 4, Shri Mitul Shelat, learned advocate appearing on behalf of the respondent No.5 and M/s Singhi & Co. for the respondent No.6.

2. By way of this Judges summons, the applicant Testeels Employees Committee for an on behalf of the ex-workers of Testeels Limited (in liquidation) has prayed for an appropriate order directing the Official Liquidator to submits its compliance report in respect of the claim lodged by the applicant by the applicant as per the direction/order issued by this Court on 4-10-2005 in Company Application No.285 of 2005.

3. It appears from the record that when the claims were submitted by the applicant on behalf of the workers of the Testeels Limited (in liquidation), the reference was pending before the Industrial Forum with regard to closure of the company in liquidation. This Court permitted the Official Liquidator to verify the claim of the workers through the Chartered Accountant. It appears that at the relevant time, the references were pending before the Industrial Tribunal. It is reported that thereafter, by judgment and award dated 21th July, 2006,

the Industrial Tribunal has partly allowed the Reference IT No. 65 of 2003 and has declared the closure illegal, however, has directed to pay the 30% of the back-wages only upto 27-4-2004. It is reported that against the judgment and award passed by the Industrial Tribunal dated 21-7-2006, the applicant has preferred Special Civil Application before this Court being Special Civil Application No.18083 of 2006.

4. Under the circumstances, let the applicant approach the Official Liquidator by submitting the judgment and award passed by the Industrial Tribunal dated 21-7-2006 and lodge their claims on the basis of the said judgment and award within a period of three weeks from today and on submitting the requisite claims by the applicant on behalf of the ex-workers, the Official Liquidator is directed to get the same verified by the Chartered Accountant and also verify the claims of the respective workers, considering the judgment and award passed by the Industrial Tribunal dated 21-7-2006 and submit the report before this Court. The aforesaid verification will be subject to the decision that will be taken by the Official Liquidator to challenge the judgment and award passed by the Industrial Tribunal. However, the present order is passed only for the purpose of verification and

adjudication of the claims only. The aforesaid exercise be completed within a period of three months from the receipt of the claims by the applicant and/or the workers. It goes without saying that if Special Civil Application No.18083 of 2006 is allowed in favour of the workers and it is held that the workers are entitled to some more amount, in that case, it will be open for the applicant to submit their claims before the Official Liquidator on the basis of the judgment and award that may be passed by this Court and an appropriate order can be passed on that basis. However, at present the Official Liquidator is required to verify the claims of the respective workers, considering the judgment and award passed by the Industrial Tribunal dated 21-7-2006.

5. With these, the present company application is disposed off.

(M.R.SHAH,J.)

shekhar/-